

Carnival and Amusement Ride Safety Advisory Board Meeting

January 25, 2007

Board Members Present: Cynthia Wilk (representing William M. Connolly), Chair; William Dauphinee; William Gehlhaus; Lucy Murphy; Geoffrey Rogers; Ernest Niles; Michael Skelly; Nancy Sheridan; William Zumsteg

DCA Staff Present: Michael Baier, Acting Chief, Bureau of Code Services; Michael Triplett, Carnival and Amusement Ride Safety Unit; Carrie Battista, Bureau of Code Services; Andreas Lichter, Carnival and Amusement Ride Safety Unit; Donald VanHouten, Carnival and Amusement Ride Safety Unit; Paul F. Mulherin, Carnival and Amusement Ride Safety Unit; Richard Gallagher, Carnival and Amusement Ride Safety Unit; Robert Latham, Carnival and Amusement Ride Safety Unit; Chris Frankowski, Carnival and Amusement Ride Safety Unit; Thomas Murtha, Carnival and Amusement Ride Safety Unit; Daniel Troy, Carnival and Amusement Ride Safety Unit; Arthur L'Hommedieu, Carnival and Amusement Ride Safety Unit; Gina DeCosta, Carnival and Amusement Ride Safety Unit

Members of the Public: Anthony Casale, Fun Party Amusements; Mr. Zientek, NJ Partyworks; Kimberle Samaneli, NJAA; Lary Zucker, NJAA

The meeting was called to order at 10:15 am.

Approval of the Minutes of October 19, 2006.

A motion was made by William Gehlhaus seconded by William Dauphinee to accept the minutes of the 10/19/06 meeting. The minutes were approved without change.

C. Old Business

1 Rockwall rule proposal - The Department staff reported that there was a court decision after the last meeting of the Board that has lead the Department to alter the scope of the proposal. The court felt that rock walls do not really fit the definition of mechanical devices that propel passengers over a fixed course for the purpose of amusement, thrills or enjoyment. The Department has regulated rock walls because the belay system is a mechanical device. The court felt that the belay device was not the primary thing that gave the passengers the thrills and excitement and opined that the belay device was a safety device. The court felt that the Department was reading the Statute too broadly and that things like the golf carts could be defined as amusement rides if the Department was going to read the statute that broadly. The direction from the court was that the Department would be consistent with the statute if it regulated rock walls as gravity propelled rides. If regulated as a gravity or passenger propelled device it would mean that they would only require a permit when they were located with other rides that would require a permit on their own. A Board member thought that the definition of

amusement ride in the statute is flawed and that rock walls should be regulated even when not located with other rides. A Board member asked how the Department viewed rock walls located with another ride that needs a permit. For example, if there was a rock wall at one end of a Mall and a regulated ride at the other would a permit be required for the rock wall. Staff responded that if the rock wall were on the same property as another ride it would require a permit. Even in the case of a Mall where there is a generous amount of separation between the two, both would be regulated because they are on the same site.

Staff reported that it believed the rule was ripe for action. Some Board members asked for additional time to review the proposal and time to share it with the New Jersey Amusement Association. Staff reported that the current proposal has been before the Board for about 4 months with few substantive changes. A motion was made by William Gehlhaus seconded by Geoff Rogers to table action on the proposal for one meeting.

2. Water Park Ride Rule Progress Report – Mr. Rogers reported that the water park subcommittee had met four times since the last Board meeting and had made good progress. It was estimated that the committee could have a document that was ready for the Board to review in the next month to month and a half.

3. Certified Maintenance Technician – Staff reported on three major changes that were made in response to comments at the last Board meeting. The first was to allow programs that the Department deems equivalent to NAARSO or AIMS to be used as the basis for Certification. The second change was a reduction in the amount of time that records must be kept from five years to three years. The third change was to better define the scope of the rule. The assembly, disassembly, set-up and major repair of a ride would require supervision by a Certified Maintenance Technician. A Board member questioned whether everyone working on the ride would need to be trained. Some of the people responsible for the set-up of kiddie rides are simply there for manpower and may not need training. Some board members thought that they needed additional time to review the proposal and analyze what impact it will have on staffing at parks. A member asked what the genesis was for the proposal. Staff responded that the incident where several operators were shocked and a maintenance worker was ultimately electrocuted because of faulty maintenance caused the Department to push for better control of maintenance. A Board member questioned whether all like for like replacements could be done without a CMT. Staff responded that, for electrical, there was limited replacement work that can be done without a CMT, such as changing bulbs and fuses. Replacing transformers and other work that requires some expertise would have to be supervised by a CMT. Staff stated that the purpose of the rules is to put more of the responsibility for ensuring that rides are maintained and repaired correctly on the owner since the Department does not have the staff to do an inspection on all work that is done to the ride. A Board member felt that a working group to discuss the proposal was needed. A Board member asked how direct supervision was interpreted. Staff responded that direct supervision means that the CMT exercises control over the maintenance process to a degree that ensures that the work is being done properly. For example the qualified person may have to stop at some critical point in the process so that the CMT can see what was done and authorize going on to the

next step. A Board member suggested that the critical points be established by rule. Staff responded that based on the sheer number of different activities that take place that it is impossible to establish all of the critical points. The CMT is responsible for establishing the critical points where work should be looked at before going on to the next step. A Board member asked if a CMT could exercise supervision over the phone by “walking” the qualified person through the process. Staff responded that they would have to be on site. A motion was made by Geoff Rogers seconded by Ms. Murphy to table action on the proposal and to establish a working group to discuss the proposal. The motion passed. A working group of Mr. Skelly, Mr. Gehlhaus, Mr. Rogers, Ms Murphy, Mr. Zumsteg chaired by Mr. Dauphinee was established.

4. Advertising - A Board member asked why DCA was interested in advertising. Staff reported that it is often difficult for the Department to catch rides that are operating illegally especially inflatables, because often they are only set up for a short period of time. It is much easier to try to regulate un-permitted inflatables and other short term use rides by taking action when they advertise. A Board member questioned whether this would have an effect on promotional material for rides such as Kingda Ka. The Board also asked if this would prevent ride manufacturers from advertising rides in Trade magazines that had not been approved in NJ yet. Staff responded that the intent was to prohibit people from advertising that their rides were approved for use in New Jersey when they aren't. Staff also commented that they would not consider someone advertising a coming attraction as offering it for use. The Board suggested that rather than saying “sell” it should say “enter into a contractual obligation” in 5:14A-5.2 since once the contract is signed the owner will be obligated to buy a ride that is not approved for use in the state. Under the penalties section the Board thought that if there was a pending application at the time of sale that a penalty would not be appropriate since it is assumed that the manufacturer is making a good faith effort to have the ride approved for use. Staff agreed to make those changes and ensure that the rule will not prevent promotional material for rides that are planned for the future. This proposal will be brought back to the board for review.

5. Stop work order - A Board member asked what the purpose of the rule was. Staff responded that the purpose of the rule was to allow the Department to stop work on an amusement ride that may be progressing in a manner that could endanger the public. A motion was made by Mr. Niles to approve the proposal seconded by Ms. Sheridan. The proposal was approved by the Board.

D. New Business

1. Portable verses fixed rides – Staff reported that at the time of the adoption of ASTM F2291 there was a comment from the public asking the Department to clarify the definitions and requirements for portable verses fixed rides. There are two primary issues that need to be clarified. The first is how the connections (electrical and plumbing) are made to the ride. The second is how the applicable environmental loads on the ride are dealt with. A Board member felt that as long as the operator was running and maintaining the ride in accordance with the manufacturer's requirements, then the rules didn't need to

go any further. Staff responded that they agreed in concept but that there needs to be a plan for how the ride will be secured in the event of an impending storm. A Board member stated that it was the manufacturer's responsibility to establish both operating and non operating wind conditions for the ride. The Staff will prepare a proposal for a future meeting.

E. Information

1. Ride Statistics – Staff provided the Board with additional information on the three serious incidents that occurred during the 2006 ride season.

2. Service proven ride proposal – Staff reported that the Department will not be going forward with the rule proposal on Time Tested rides that was previously approved by the Board. The proposal sought to require that the ride be made to comply with the codes in effect at the time of manufacture. Because the definition is statutory, the change could not be made.

Public Comment

Lary Zucker encouraged the use of working groups to craft rule proposals. He indicated that NJAA would be meeting with the Department to discuss some of the issues on the Board's agenda. He also commented that though the inflatable industry does not always get the best press that they should have a member on the Board. Finally, Mr. Zucker thought that there may be a legislative solution to a number of issues where the scope of the Act is not clear, such as the rock wall issue.

Art L'Hommedieu stated that based on his inspection experience there was a need for the CMT rule.

Mr. Zientek asked if rental rides fell under the proposed CMT rule. Staff reported that a number of what would be described as rental rides have also been involved in incidents that resulted in injury due to improper maintenance. Mr. Zientek stated that he agreed that maintenance was an issue but felt that assembly of the smaller rental rides did not need a CMT.

The Department asked the Board if there was an objection to putting the Board minutes on the DCA website. There were none.

The meeting was adjourned at 12:00 pm.